

THE LEONARD LETTER

April 25, 2005

QUOTE OF THE WEEK

“What has always made the state a hell on earth has been precisely that man has tried to make it his heaven.” --- F. Hoelderlin, Poet (1770-1843)

UNDER THE DOME

*****Caveat to Democrats*****

My read of the state's newspapers and the mood in Sacramento is that Democrats are exultant. They are claiming victory because the Governor has pulled his initiative to reform public pensions. Before they celebrate to excess, I would like to give them this caution: the Governor is still the chief executive of California. That means that he has the power to veto and to wield the blue pen at budget time. This Governor, in particular, has an impressive ability to mobilize public opinion and shape media coverage. The Democrats may believe they have “won one,” but I sense that Governor Schwarzenegger is not so much keeping score as working down a To-Do list of reform tasks. He will not be distracted by set-backs, nor will he be accepting of gloating aimed at him.

*****Taxpayer Rights Agenda for California*****

I have had a productive and busy 2+ years here at the BoE, but there is much more to do. While it is possible to be immersed in the minutia of tax law and the particular cases I must consider, it is more important to articulate and implement broad principles. That list is below. I am pushing several of these ideas as legislation this year.

TAXPAYERS SHOULD BE ALLOWED TRIAL BY JURY

The government coming after taxpayers is no different than a criminal indictment. Yet, taxpayers are treated worse than criminals and have fewer rights. California taxpayers should demand the same right to a jury trial that accused criminals have.

TAXPAYER PRIVACY SHOULD BE INVIOLE

The Franchise Tax Board should not be allowed to threaten taxpayers with disclosure of their personal information for not ceding to the government's demands. Taxpayers may

voluntarily make their information public by seeking justice before the BoE or a court, but involuntary disclosure is an outrage that deserves correction and vigilant monitoring.

TAXPAYERS SHOULD HAVE PUBLIC DEFENDERS

Taxpayers coming before the Board of Equalization should have the same access to public defenders that accused criminals have in court.

BURDEN OF PROOF SHOULD BE ON THE GOVERNMENT

If you are accused of a crime in court, the burden of proof of your guilt is with the government. However, if you are a taxpayer accused of wrongdoing, the burden is on you to prove your innocence. The IRS changed that in 1998 and California needs to adopt that approach as well so that the burden of proof belongs with the government.

PLACE PRO-TAXPAYER EVIDENCE STANDARD IN LAW

To prove fraud, the Board of Equalization abides by a court decision that they must present “clear and convincing” evidence. Yet, accused criminals enjoy protection “beyond a reasonable doubt.” Taxpayers should have at least the same rights as criminals.

CONSOLIDATE TAX DEPARTMENTS

The state’s myriad tax departments should be merged into one to save money and to make it easier to comply with tax laws. It should be run by an elected Tax Commission whose members are accountable to the people by how they defend taxpayer rights and administer justice.

HOLD TAX COLLECTORS ACCOUNTABLE

Tax department employees have broad immunity that shields them if they abuse taxpayers or violate their rights. Tax employees should not have greater immunity than public safety employees.

ISSUE FOCUS

*****Another Forecaster on California's Economy*****

When the press talks about the economy, they mostly like to quote the Anderson School at UCLA, which has been upheld as an unbiased source. I no longer have confidence this is true. For balance, and because I believe that competition is healthy, I have started looking at the University of the Pacific’s Eberhardt School of Business releases on the

economy. The Business Forecasting Center at the Uof P is only about a year old, but its product has already caught my eye because the work tends to include detailed local and regional perspectives on California that I have not seen covered in other reports. The style is clear and not clouded by academic gobbledygook. I commend Professor Sean Snaith for his work communicating economic information to the public.

Beyond the California summary, the areas covered are: Fresno, Merced, Modesto, Oakland, Sacramento, San Francisco, San Jose, Santa Rosa, Stockton-Lodi, Vallejo-Fairfield-Napa, and Yolo.

To read the latest March 2005 report, it can be found at <http://forecast.pacific.edu>.

MISCELLANY

A Good Read

This week's recommendation was written between 1940 and 1943 for a British audience by Nobel Prize winning economist F.A. Hayek. His goal was to warn about the dangers of the totalitarian government of the German Nazis and other socialist, fascist and communist states. Do not dismiss "The Road to Serfdom" as a 20th century anachronism because the messages are pertinent to this day. Hayek explains why "planning" an economy not only fails to achieve its stated goals, but also damages the people it purports to help. In a foreword written later, Hayek said that he thinks that many readers missed a main point of the book, which is, "that the most important change which extensive government control produces is a psychological change, an alteration in the character of people." He noted that such a change was slow and could take one or two generations. Since we are now a few generations out from modern socialism and the growth of the American state, it is worthwhile to remind ourselves about the principles of liberty, their application to politics and economics, and the need for us to be vigilant in the cause of liberty.

BOE AND LEGISLATIVE DATES

April 27, 2005 --- Special BoE meeting in Sacramento regarding Cigarette and Tobacco Tax Law.

April 29, 2005 --- Last day for policy committees to hear and report fiscal bills.

May 5, 2005 --- Tax seminar for Nonprofit and Tax Exempt Organizations in Ventura.

May 12, 2005 --- Tax seminar for Nonprofit and Tax Exempt Organizations in Folsom.

May 20, 2005 --- Last day for policy committees to meet prior to June 6.

May 24-25, 2005 --- BoE meets in Sacramento.

May 30, 2005 --- Memorial Day.

June 2, 2005 --- Tax seminar for Nonprofit and Tax Exempt Organizations in Santa Clarita.

June 15, 2005 --- Budget bill must be passed by midnight.

June 16, 2005 --- Tax seminar for Nonprofit and Tax Exempt Organizations in Bakersfield.

NOTABLE DATES/ HISTORY

April 25, 1928 --- The first seeing eye dog, Buddy, was introduced to his new master, Morris Frank.

April 26, 1865 --- John Wilkes Booth, assassin of President Abraham Lincoln, was killed by federal troops.

April 27, 1937 --- The first Social Security checks were mailed in the U.S.

April 28, 1944 --- Exercise "Tiger" ended with about 750 U.S. soldiers dead in D-Day rehearsal after their convoy ships were attacked by German torpedo boats.

April 29, 1857 --- U.S. Army, Pacific Division HQ was permanently established at the Presidio in San Francisco.

April 29, 1830 --- Adolph Sutro, who became the Mayor of San Francisco and who built the city's Cliff House, railways and tunnels, was born.

April 29, 1974 --- U.S. President Richard Nixon announced he was releasing edited transcripts of secret White House recordings about the Watergate break-in.

April 29, 1992 --- Rioting broke out after four Los Angeles policemen were acquitted of assaulting black motorist Rodney King.

April 30, 1789 --- George Washington took office in New York as the first president of the U.S.

April 30, 1803 --- The U.S. purchased the Louisiana Territory from France.

April 30, 1945 --- Adolph Hitler committed suicide alongside his wife, Eva Braun, in his Berlin bunker.

May 1, 1998 --- Former Black Panther leader Eldridge Cleaver died in Pomona, California, at age 62.

May 1, 1960 --- CIA agent Francis Gary Powers, piloting an American U-2 reconnaissance, was shot down over the Soviet Union near Sverdiovsk.

GENERAL TAX INFORMATION

For answers to your general tax questions, call the Board of Equalization information center. Customer service representatives are available to help you from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday (except state holidays).

Toll-free number: 800-400-7115
TDD service for the hearing impaired
TDD phones: 800-735-2929
Voice phones: 800-735-2922

To reach the Taxpayer Rights Advocate's office for assistance with any BOE issues, see <http://www.boe.ca.gov/tra/tra.htm>, or call toll-free 1-888-324-2798.

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